

# PSYCHOLOGY TEACHERS UPDATE

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Children in Court

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## PSYCHOLOGY TEACHERS UPDATE

Psychology Teachers Update is designed to give a brief overview of the main developments in the different areas of psychology. There is a proliferation of journals and research, and it is very difficult to keep abreast of the latest trends, particularly in the many and varied areas of psychology.

Each issue of Psychology Teachers Update will cover a particular topic, and summarise the main research directions and findings in the last ten to fifteen years approximately. The aim is to give teachers the feel of what is happening in that area of psychology.

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# Young Children as Witnesses

## INTRODUCTION

When studying child (or adult) witnesses, two terms are important: reliability of the memory (ie: the accuracy of the report), and credibility of the account (ie the believability and plausibility) (Bruck et al 2001). Testimony can have one without the other.

The view that young children are not trustworthy witnesses is deeply embedded in traditional legal textbooks and the legal system (Brewer 2000):

In the past, children were often ignored by legal systems because of the belief that anyone below the age of around ten years was "incompetent". There was a belief that young children were not sufficiently advanced developmentally to participate in legal proceedings, either as witnesses, or as perpetrators, or as parties to divorce proceedings, and so on. However, developmental research in the last twenty years or so has clearly shown that young children are much more competent than was believed (Bull 2001 pxi).

The traditional view of children in the legal system can be seen in a lab experiment where the confidence in five to six year-olds as accurate witnesses is one-third of that of the confidence in adults (Leippe et al 1992).

While those working in the legal profession have limited faith - for example, fifty percent of Florida police officers, who were asked, believed that 5-9 year-olds were likely to recall "less" or "much less" than adults (Brigham and Spiers 1992).

But, in video of a trial, child witnesses were rated as more accurate, truthful, forceful, confident, consistent, and trustworthy than young adults (Ross et al 1990).

Children as young as three years-old can recall events up to a year ago, but the memories may contain errors (Pillemer and White 1989). Children of one or two years old provide little verbal information about their experiences, even later when they gain verbal skills (Peterson and Rideout 1998).

The amount of recall increases with the child's age, and the level of error does not change (Angold 2002). Pozzulo and Lindsay's (1998) meta-analysis of studies comparing 1066 child and 1020 adult witnesses found pre-schoolers to be very poor at correct identification of suspects compared to adults. Other age groups were not

significantly worse than adults.

As with adults, children will combine repeated events into generalised memories or "scripts". Likewise, there are problems in providing information about onset, timing, and duration of events (Angold 2002). Repeated questioning, suggestion, and leading questions induce errors in all age groups of children and adults (Bruck et al 1998). The classic work of Elizabeth Loftus (eg: 1975) showed how misleading questions can influence the recall of adults.

Because children have limited attention spans, and if a lot of information is required from them, there is a temptation to use closed questions. This can produce bias because the questions may be leading to make them "easier", or the child feels obliged to agree with the interviewer (Angold 2002). Open questions yield two and a half times more information than closed ones (Glaser 2002).

In a recent Israeli study, Hershkowitz et al (2004) compared interviewing techniques for alleged 9-14 year-old offenders. More information was elicited using invitations (eg: "Tell me everything that happened") than with suggestive questioning (eg: "You forced him to do that, didn't you?") or option-posing prompts (forced-choice questions). There was no difference whether the alleged offender admitted or denied the offence.

The meaning of the language used can also be different between the child and the adult interviewer - eg: "sad" for a four year-old may be different to the adult's use or understanding. This can be overcome by the Berkeley Puppet Interview (Measelle et al 1998), for example, which uses two puppets who express two views or feelings, and the child chooses the puppet most like themselves.

The collection of information which can be used as legal evidence in abuse cases adds further difficulties, not only in the quality of the material needed. But the need to avoid suggestion which could lead to the evidence being rejected in court. The topics involved can be frightening or embarrassing for the child, or they may have been threatened not to tell, or the child may lack the correct (eg: anatomical) understanding of what happened (Angold 2002).

The child's silence can be interpreted as poor recall, when, in fact, it is a coping strategy. The child may still be in close contact or cared for by the abuser, or the child may be suffering from Post-Traumatic Stress Disorder (Glaser 2002).

Relevant issues other than the accuracy of recall include the truthfulness of the child, their clarity of thought, and their ability to withstand misleading suggestions (Glaser 2002). How the child is interviewed is key in all cases.

Table 1 summarises the key issues in interviewing child witnesses.

WHO IS INTERVIEWER	Eg: police officer in uniform  Assumptions made by interviewer; eg: child not telling whole story
WHEN TO INTERVIEW	Early/delayed questioning  Repeated questioning
HOW TO INTERVIEW	Type of questions; eg: free recall/open questions  Leading questions/ suggestibility  Use of techniques to aid recall; eg: anatomical dolls; cognitive interview  Children challenging authority figure
WHERE TO INTERVIEW	

Table 1 - Key issues in interviewing child witnesses.

## SUGGESTIBILITY OF CHILD WITNESSES

Two questions arise from the many studies on the suggestibility of child witnesses - whether children are more suggestible than adults, and in what circumstances are children's statements distorted?

Traditionally, suggestibility has been defined as "the extent to which individuals come to accept and subsequently incorporate post-event information into their memory recollections" (Gudjonsson and Clark 1986). Suggestibility is, thus, not a conscious process, and it is different to conformity to expectations or pressure to lie, according to traditional definitions.

However, more recent definitions prefer to allow for false reporting, where the child is conscious of changing their story through pressures from others. Ceci et al (2002) defined suggestibility more widely as "the degree to which encoding, storage, retrieval and reporting of events can be influenced by a range of internal and

external factors" (p120).

### Early Research on Suggestibility

The dominant view on the suggestibility of witnesses is that young children are more suggestible than older children and adults. In relation to eyewitness questioning, this means vulnerability to leading questions, peer pressure, repeated questioning, and conforming to adults' wishes.

This view is based on early 20th century research, in particular, from Binet (1900). Using 7-14 year-olds, they were shown a poster containing six everyday items, and then questioned in different ways. The degree of accuracy of recall was linked to the nature of the questioning. Table 2 shows an example of questions relating to a button glued to the poster.

TYPE OF QUESTIONS	LEVEL OF RECALL
No questions, free recall*	Most accurate
Direct questions eg: "How was button attached to poster?"	↑ ↓
Leading questions eg: "Wasn't the button attached by string?"	
Suggestive questions eg: "What colour was string that attached button?"	
	Least accurate

\* Correct leading questions were not used, but they are effective; eg: "Wasn't the button glued to the poster?" (Ceci et al 2002).

Table 2 - Types of questions used by Binet (1900).

Binet also noted that children were equally confident when right or wrong, and were more suggestible in groups. Both these factors have been found in studies with adults (eg: Clark and Stephenson 1995: police officers).

Binet's research and other contemporary studies are of limited use in understanding children's testimony because of the nature of the tasks, for example. The focus was upon misleading questions related to peripheral detail <sup>1</sup>. Furthermore, these situations were

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<sup>1</sup> Like adults, children can remember the essential facts of an important event. Ochsner et al (1999) arranged for sixty Ohio schoolchildren (aged 6-7 years) to see a man come into a classroom and either

"qualitatively different from incidents of child abuse", and "it is seldom known whether the events hold much interest for the children" (Goodman and Clarke-Stewart 1991). In other words, the early research lacked ecological or external validity (Ceci et al 2002).

The current views on the accuracy of children's testimony falls into two camps: (i) those researchers who see children's testimony as accurate as that of adolescents and adults, and (ii) those who support the early research on suggestibility (known as "New Wave": Lyon 1999).

### Recent Research on Suggestibility

Warren and McGough (1996) noted four caveats about the research on suggestibility:

i) In the real world, those who interview children are in a difficult position, and "the lines between encouraging candid disclosure and suggesting a response, between fact-finding and assumption, and between investigation and therapy are not clearly marked and require split-second judgment calls" (p15).

ii) The reliability of memory is a complex event, and is linked to cognitive, social, emotional, and moral elements.

iii) Most of the research is low in ecologically validity, particularly in relation to cases of child sexual abuse, and attempts to improve this validity are always in the minds of researchers.

iv) Most of the research has focused upon suggestibility as "an unconscious tendency of children" rather than as deliberate deception.

There are a number of different types of study - both lab and field experiments - looking at the suggestibility of children as witnesses.

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take a purse or drop a pen. The mean correct recall was approximately five of fourteen for both groups, and incorrect recall was low (approximately one of six misleading questions).



## 1. Paediatric Examination Study (Saywitz et al 1991)

During a paediatric genital examination or examination for scoliosis, seventy-two 5-7 year-old girls were touched briefly on different parts of their bodies including their genitalia. Then the children were interviewed with open-ended questions or doll-aided direct questions.

The latter type of questioning produced more reporting of intimate touching where it occurred, but also false reports for those not touched on the genitalia (1 of 35 - 2.86%) and anus (2 of 36 - 5.56%). Table 3 shows the difference between free recall with open-ended questions and direct questions.

	GENITAL TOUCH		ANAL TOUCH	
OPEN QUESTIONS	8/36	22%	4/36	11%
DIRECT QUESTIONS	31/36	86%	25/36	68%

Table 3 - Number and percentage of children correctly reporting touch based on type of question used.

Saywitz et al took the view that although doll-aided direct questioning produced the risk of error, not asking may leave events unreported.

Generally, it is felt that, children do not volunteer false information. Spencer and Flin (1993) surveyed eight studies (between 1976-1991) of abuse (with 2408 participants), and found false abuse recall or claims of between two to ten percent only. For example, one study found 6% of claims "consciously false". Where there is such conscious deception, adults may be behind it (eg: coaching the child about what to say or creating the false story of event).

### Evaluation

i) Ethical concerns about the study partly overcome by the use of medical examinations already taking place (ie: field experiment).

ii) Limited number of false reports compared to correct recall.

iii) The study did not use coercion or peer pressure in questioning (Ceci et al 2002).

## 2. Delayed Inquiry Study (Goodman et al 1989 reported in Goodman and Clarke-Stewart 1991)

Children aged 3-6 years old were asked to play a non-sexually provocative game with a strange man for a short period (about five minutes). Four years later, fifteen children were re-interviewed about the event, but the researchers deliberately produced an "atmosphere of accusation".

In such a pressurised interview situation, a number of the children agreed with the interviewer's suggestions: one-third that the stranger had kissed and hugged them; 2 of 15 that the stranger had photographed them; and one child agreed that the stranger had given them a bath.

In such situations of pressurised interviewing, where the interviewer says things like "you'll feel better once you've told" or "are you afraid to tell?", some children are vulnerable to agree to false suggestions that could be taken as suspicion of abuse.

However, adults can make false confessions in situations of pressurised interviews (known as "coerced-compliant" confessions) (Gudjonsson 1992).

### Evaluation

i) Ethics of interviewing children in an "atmosphere of accusation", particularly as this was an artificial experiment. Because child abuse is seen as a major social concern, the benefits of such research are seen to outweigh any negative effects (Bateson 1992). Thus this type of research is viewed as acceptable to undertake.

ii) Length of study, over four years, in some ways similar to real-life cases.

Other research has found that recall accuracy declines significantly over six months for 6-9 year-olds, and this is greater than for adults (Flin et al 1992).

In the US, the average time from initial complaint to trial in child abuse cases was found to be 10 months (Goodman et al 1992). In a famous trial in California, known as the McMartin preschool trial, it was seven years between the allegations and the testimony in court (Warren and McGough 1996). This case is quoted by researchers in many ways as how not to interview children.

iii) Only a minority of children gave false reports even in this pressurised situation.

iv) Validity of "atmosphere of accusation" - was it similar to real-life abuse cases, or did the children

know that it was not for real (ie: question of internal validity)?

### 3. Trailer Study (Rudy and Goodman 1991)

A four year old and a seven year old were left in a trailer with a strange adult. One child played games with the adult, like dressing up in a clown's costume, while the other child watched. Ten to twelve days later the children were interviewed with various types of questions, including leading questions of child abuse (eg: "How many times did he spank you?").

Concerning the type of questions, 7 year olds made no mistakes, and 4 year olds only a minor number (eg: 3% for participants in the game and 4% for observers).

#### Evaluation

i) Ethical issues of this lab experiment: distress to the children or effectiveness of debriefing after the experiment. The introduction of child abuse questions to children who may have no knowledge of such concepts may be a concern.

ii) Reasonable time between event and questioning (10-12 days).

iii) Again few children made mistakes.

iv) Are there situations where children are not suggestible? For example, when the event is significant to them as a participant (rather than as an observer). Generally, suggestive interviewing can produce inaccurate reports even in these cases, especially for pre-school children (Ceci et al 2002).

### 4. Mount Sinai Study (Eisen et al 1998)

108 children aged 3-15 years old were examined in Mount Sinai Hospital in Chicago as part of an assessment of genuine suspects of abuse. The children were questioned 3-4 days after being examined by the doctor.

During the questioning, 79% of 3-5 year olds answered misleading questions about abuse during the doctor's examination correctly. But where there were errors made, a small number of children (6 of 29) were particularly vulnerable: "If such children were interviewed in an abuse investigation a false accusation could potentially result" (Eisen et al 1998).

With the older children, some errors were made with misleading abuse-related questions: 16% of 6-10 years

olds, and 9% for the oldest children.

## Evaluation

i) Greater ecological validity as this study used real cases of suspected abuse being examined in the hospital (ie: field study).

ii) Vulnerability of certain children, if abuse suspected, to be used in the research.

## 5. "Mr.Science" studies (Poole and Lindsay 1995; Lindsay 2002)

This series of experiments tested children's source-memory; ie: their ability to distinguish actual memories and information added after the event.

Firstly, the children received a science demonstration from a stranger called "Mr.Science". Three months later, the parents read the children a story called "A Visit to Mr.Science" which included demonstrations that the children did not see themselves.

Seventy-one percent of 3-4 year-olds answered "yes" to having experienced demonstrations themselves that were included in the later story. Subsequent source-memory training with different age groups reduced the amount of errors.

However, adult recall is also influenced by post-event information (eg: Loftus 1975), and source errors (eg: witness confusion in the Oklahoma City bombing case in 1995; Brewer 2000).

## Highly suggestive questioning techniques

In real child abuse cases, children can be interviewed in high pressure situations where the potential for suggestibility is high (Ceci and Bruck 1995). The techniques used include the repetition of questions within interviews, and peer pressure. Such techniques produce error rates for children as high as 50% (Ceci et al 2002).

a) Garven et al (1998;2000): reinforcing answers that are consistent with the interviewer's hunches/beliefs (ie: pressure to conform).

These studies compared the errors made by children in recalling an adult's behaviour under reinforcing questioning or direct questioning without reinforcement. The former produced much higher rates of error both in

short and long-term questioning (table 4).

	REINFORCED QUESTIONS	NON-REINFORCED
SHORT-TERM	57	17
LONG-TERM	35-52	13-15

Table 4 - Percentage of errors made in recall by children based on type of questioning.

But general encouragement throughout the interview regardless of the accuracy of the child's statements, such as "You're doing a great job", does not always produce errors (eg: Goodman et al 1991):

There is a thin line between being warm and supportive of a child, particularly one who allegedly has been traumatized, and actively encouraging or discouraging only particular types of response by word or gesture (Warren and McGough 1996 p20).

b) Poole and White (1991): use of repeated questioning.

Four, six, eight year olds and adults were interviewed about an encounter with a stranger either immediately and then one week later, or just one week later. In the former condition, the same open and closed-ended questions were used.

Repetition of open-ended questions did not result in more errors, but it did with closed-ended questions compared to a single asking (eg: 60% vs 33% for recall of being hurt by the stranger for all age groups).

Other studies have found that young children are highly suggestible to repeated questions with both errors increasing and consistency of false reports over time (Ceci et al 2002).

Bruck et al (1997) interviewed pre-school children on five different occasions about four types of events: true-positive (an event that did happen involving the child being rewarded); true-negative (a real event where the child was punished); false-positive (a positive event that did not happen); and false-negative (eg: witnessing a crime that did not occur).

The first interview was general and open-ended, and information about the true-positive event came out only. In three subsequent interviews, peer pressure and repeating misinformation were among suggestive techniques used. Initially the child denied the other types of

events, but, by the final non-suggestive interview, they had assented to both true and false events.

On the other hand, studies have found that twice interviewed children were superior to singly interviewed ones (eg: Tucker et al 1990).

Ceci et al (2002) reanalysed the data of children interviewed five times about the same event by Bruck et al (1997) for consistency of reports about positive and negative events. The researchers found that the true reports were more consistent over the third, fourth and fifth interviews than the false ones (table 5). Overall it depends upon the nature of the questioning in each case (ie: suggestion or not) (Warren and McGough 1996).

	POSITIVE EVENTS	NEGATIVE EVENTS
TRUE REPORTS	50	67
FALSE REPORTS	25	30

Table 5 - Consistency rates (%) (ie: same information appears in more than one interview) of children over the third, fourth, and fifth interviews about the same events.

There is also the simple fact that repeated questioning can induce fatigue in young children (Sternberg et al 1996).

c) Warren et al (2000 quoted in Ceci et al 2002): analysis of interview transcripts of child protection service workers in southern USA.

Generally this study found that interviewers here did use suggestive techniques in some cases, and certain practices in interviews did occur at least once; eg: use of phrases like "You haven't told us anything" (28 of 42 interviews); repetition of a question despite the child giving a clear answer before (95% of interviews); and positive reinforcement of answers on at least one occasion (88% of interviews):

Taken together, the data on practices employed by front-line interviewers indicates that highly suggestive techniques are very common  
(Ceci et al 2002 p123).

## CROSS-CULTURAL RESEARCH

### Israel

Sternberg et al (1996) studied 22 interviews of children in sexual abuse allegations in Israel. They analysed the transcripts for five types of interviewer questions:

- i) Open-ended or invitational;
- ii) Facilitative - non-suggestive cues to continue  
eg: "Keep going";
- iii) Directive - focused on something mentioned by the child earlier in the interview;
- iv) Leading - focused on something not mentioned by the child;
- v) Suggestive - implicit cues to expected answers;  
eg: "He touched you, didn't he?".

Invitational questions produced three times longer and richer responses from the child than directive, leading or suggestive questioning. Directive questions did not influence the child's responses in the same way as leading or suggestive questions.

In further analysis, Sternberg et al found that interviews that began with open-ended rapport-building (eg: "Tell me about your family") produced three times more detail from the child than direct openings (eg: "How many brothers do you have?").

### South Africa

In South Africa, the Hammond and Hammond (1987) research project has carried great influence on how child witnesses are viewed. This research project contained three areas of study about children's memories.

a) Eight children aged between five to eight years competed against their mothers in a "Pelmanism game". The aim of the game is to match cards turned face down by turning over one at a time. The game requires memory for past cards turned over. Overall, in memory terms, the children performed better than their mothers, even with a five-day delay in a card recognition memory test.

b) Sixteen mothers and children were visited by a health worker talking about nutrition. Then there was an unexpected memory test either one day or seven days

later. The recall of the adults was best with 7-11 year-olds at 80% this level, and 4-6 year-olds recalled 69% of the adult level. In terms of leading questions, 64% of the young children, 56% of the older children, and 50% of the mothers were influenced by them.

c) Sixty-four 5-12 year-olds were shown facial photographs, and then tested for recognition ten minutes or seven days later. Accuracy of recognition from a choice of twenty photographs increased with age.

However, subsequent research from other countries has questioned the Hammond and Hammond studies (eg: small sample size; ecological validity of the tasks) (Louw and Olivier 1996).

## OTHER ISSUES RELATING TO CHILD WITNESSES

### Recall of stressful experiences

The research has found that stress can both improve and reduce memory effectiveness (table 6). But part of the reason for the conflicting findings is due to how stress is defined in real life or experimental studies (Fivush 2002) <sup>2</sup>.

#### STRESS IMPROVES MEMORY

- Moderate levels of stress\*
- Single event  
eg: VCUG studies

#### STRESS INHIBITS MEMORY

- Extreme stress\*
- Repeated events (Terr 1991)

\* Bahrick et al (1998) Experiencing Hurricane Andrew

Table 6 - Relationship between stress and memory.

In a typical field study, Brown et al (1999) made use of children undergoing a painful internal X-ray of their kidneys (known as "voiding cysto-urethrogram" - VCUG) in New Zealand. The three to five year olds were questioned 6-8 days after the VCUG or a general medical examination (control group). The VCUG group had a higher level of both correct and incorrect recall than the control group.

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<sup>2</sup> A heated debate about the effect of stress on children's memory is shown in the exchanges between Goodman (1991) (stress does not affect memory negatively) and Peters (1991a & b) (stress decreases the witness' recall ability).



Using VCUg cases, Quas et al (2001) looked at recall of the procedure by children, aged between 3-14 years old, before and after 36 months beyond the event. The sample used were twenty-two participants in the US and 21 in New Zealand. The memory interview contained four parts - free recall, anatomically detailed doll-based questions, direct questions (24 specific and 18 misleading), and false event questions (ie: a medical test on the nose that did not take place).

The main findings were that:

i) Age at time of VCUg predicted recall (ie: recall increased with age) (table 7);

ii) Stress was associated with less details of recall in the first two parts of the interview (free recall and anatomically detailed doll-based questions), but with greater accuracy to misleading questions (ie: stress reduced suggestibility);

iii) Many of the younger children assented to the false events in the last part of the interview: 73% of 3-5 year-olds, and 47% of 6-8 year-olds, but only 8% of 9-14 year-olds;

iv) Insecure parental attachment styles (fearful avoidant and dismissing avoidant) were related to poorer memory performance for their children in parts of the interview. The former produced more omission errors to specific questions (ie: forgetting information), and the latter commission errors (ie: incorrect details), for example.

QUESTIONED BEFORE 36 MONTHS AFTER EVENT: SHORT DELAY		QUESTIONED AFTER 36 MONTHS AFTER EVENT: LONG DELAY	
YOUNG CHILDREN*	OLDER**	YOUNG CHILDREN*	OLDER**
Total correct free recall units (mean)			
1.90	3.90	0.43	7.44
Total incorrect free recall units (mean)			
2.30	4.00	1.00	2.13
Specific questions: % correct responses			
40	67	56	57
Misleading questions: % correct responses			
17	37	37	37

\* Aged below 4 years; \*\* Aged 4 years and above.

(After Quay et al 2001)

Table 7 - Main results from Quay et al (2001) study.

Stressful experiences can influence recall negatively, but again this is similar to adult recall which is reduced in cases of stress (eg: Loftus et al 1983).

### Challenging the authority figure

Children interviewed by adults are always in a position of being subordinate, even more so if the adult is a formal authority figure like a police officer. There is concern that children may feel they have to agree with and/or please the interviewer/authority figure.

Roberts and Lamb (1999) found that children only corrected the adult interviewers in one-third of cases in transcripts of real abuse interviews in the USA. The researchers found 140 distortions in sixty-eight interviews. An example of a distortion could be the child saying "by the school", and the adult later in the interview using "in the school". If the distortion was complex, then there was less chance of the child correcting the adult. Training children for interviews or warning them beforehand to be aware can reduce such problems (Brewer 2000).

Thus the need for the interviewer to establish the ground rules of the interview - eg: the range of acceptable answers including "I don't know"; the difficulty of the questions; and that the fact that the interviewer does not know everything (Warren and McGough 1996).

In situations with interviews by authority figures, children, and to some degree, adults will try to answer every question, even if they do not understand it or that it is bizarre (eg: "Is red heavier than yellow"?; Hughes and Grieve 1980)<sup>3</sup>.

There is also the concern that young children assume adults always know what happened. Poole (1992 quoted in Bull and Davies 1996) developed the feltboard to overcome this situation. This is a feltboard containing a child's and an adult's head. Initially, the adult's head is empty, and the child's head contains lots of coloured shapes. During the interview, the coloured shapes are moved to the adult's head.

### Recall influenced by stereotypical information

Like adults (eg: Loftus 1979), children can be

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<sup>3</sup> Waterman et al (2002) explored this in more detail.

misled by stereotypical information. Leichtman and Ceci (1995) told 3-4 year-olds 12 stories about a clumsy stranger called "Sam Stone". Then the children met him. Afterwards, when the children were shown broken objects, three-quarters of them recalled that "Sam Stone" had broken them (table 8).

This research took place over twelve weeks - a number of weeks of stories of "Sam's" clumsiness before meeting, and a number of weeks of repeated misinformation about "Sam's" behaviour; eg: "When he tore the book, did he do it on purpose or was he being silly?".

	CONTROL GROUP (no stories)	EXPERIMENTAL GROUP
"Did Sam Stone do anything to a book or a teddy bear?" Answer: "Yes"	10%	72%
Claim to have seen deed	5%	44%
Gentle pressure about really seeing event, and still said seen	2.5%	21%

Table 8 - Responses of children in Leichtman and Ceci (1995) study.

#### WHO IS INTERVIEWING THE CHILD

Wells (1989 quoted in Warren and McGough 1996) said that focusing upon the child's memory and ignoring the interaction between the child and the interviewer is like studying the sound of one hand clapping.

The child may be interviewed by a diverse set of individuals from care workers, police officers to prosecutor and defence lawyers in the US.

The importance of the interviewer has been shown in the Tobey and Goodman (1992) "baby-sitter" study. Four year-olds played alone in a lab with an adult "baby-sitter", then eleven days later the children were questioned about the game. Half of the children were questioned by an actor dressed as a police officer, and the other half by a "neutrally dressed" adult.

The former group gave fewer accurate statements and more inaccurate ones about the event compared to the "neutrally dressed" adult group. It must be pointed out that the "police" interviewer began the interview by saying "I am very concerned that something bad might have happened the last time that you were here when you played with the baby-sitter".

## Interviewer bias

This is where the interviewer has prior beliefs about what did or did not happen to the interviewee. "One of the hallmarks of interviewer bias is the single-minded attempt to gather only confirmatory evidence and to avoid all avenues that may produce negative or inconsistent evidence" (Bruck et al 2001).

The interviewer may bias the interview process in two ways:

### i) Directly

For example, five and six year olds who were contradicted by the interviewer about the behaviour of "Chester the Janitor" changed their answers subsequently to conform to the interviewer's statements (Clarke-Stewart et al 1989 quoted in Warren and McGough 1996). This was so even when the children were interviewed again by their parents.

### ii) Indirectly

More often, in real life situations, the interviewers may have beliefs about what happened, and this could influence the nature of the questioning.

For example, Ceci et al (1995 quoted in Warren and McGough 1996) used the "Simon Says" game with pre-schoolers. The children were interviewed one month later either by an adult who was told the correct details of the game or one told incorrect details. The first interviewer produced more accurate information and no false reports compared to the misinformed interviewer.

However, all direct questioning, particularly in a legal situation, involves demand characteristics, even for adults (Dent and Stephenson 1979). For example, asking about an individual's shoes immediately signals to the interviewee the importance of that information, and that recall about it would help the interviewer.

Table 9 summarises the characteristics of interviewer bias.

- Look for confirmatory evidence mainly
- Failure to gather evidence for alternative explanations for events
- Ignore details inconsistent with interviewer's beliefs
- Do not challenge child's evidence when fits with interviewer's beliefs
- More direct questions used
- Use of "stereotype inducement": telling the child some characteristic of the suspect; eg: "Daddies don't do those things"
- Selective reinforcement of replies
- Use of guided imagery: ask child to imagine or pretend the event occurred, and then describe what happened

Table 9 - Characteristics of interviewer bias.

## AIDING CHILDREN'S RECALL

When young children are asked to recall events, their accounts are usually brief. Thus it is necessary to find ways to expand these accounts and discover more information.

### Use of real props

The use of real props from the actual event improves recall for children and adults, though the number of errors may also increase for children (Pipe et al 2002). Error rates are greater for direct questions about the props.

### Use of photographs

Photographs of items used as retrieval cues can improve young children's recall (even after a delay) (Pipe et al 2002).

### Drawings

Asking children to draw and tell about the event compared to a standard verbal interview seems to be more effective for older children (ie: school age). However, there are a number of relevant factors - drawing with open-ended prompts, and the quality of the drawing as retrieval cue (Pipe et al 2002).

### Use of Anatomical Dolls

It is argued that anatomical dolls can both aid recall, and help children explain what happened in cases of sexual abuse where the child lacks the appropriate language and/or are embarrassed to tell.

The use of anatomical dolls to collect evidence of sexual abuse can increase the amount of information gained (Angold 2002), but lead to misinterpretation of play with them (King and Yuille 1987), and, in experimental studies, reports of things known not to have occurred (Ornstein et al 1997).

While Ceci et al (2002) argued that such dolls do not aid recall, and, in fact, for three and four year olds increases the errors. The nature of the dolls, and their novelty, represent implicit suggestion, and, in research studies, "children were drawn to insert fingers and other objects into their cavities" (p124).

But Glaser and Collins (1989) felt that though young non-abused children are fascinated by the dolls' genitalia, this does not produce sexualised behaviour.

Another problem is that young children struggle to see the dolls as a symbol of a person or themselves (DeLoache and Marzolf 1995). Also the familiarity of the doll as a plaything may interfere with this process (Pipe et al 2002).

However, with older children (5-7 years old), doll-aided direct questioning is useful; eg: "Did the doctor touch you here?" (Saywitz et al 1991). The use of dolls can reduce children's resistance to talk about intimate touching.

## Use of the Cognitive Interview with Children

The cognitive interview (CI) has been shown to improve recall with adult witnesses (eg: Kohnken 1996). This has been partly confirmed with five to seven and 9-11 year olds (Hayes and Delamothe 1997) (table 10).

	COGNITIVE INTERVIEW	STANDARD INTERVIEW
5-7 yrs	14.2	8.1
9-11 yrs	39.8	23.3

(After Hayes and Delamothe 1997)

Table 10 - Mean number of facts correctly recalled in Hayes and Delamothe (1997) study.

Memon et al (1997) reported the use of a type of CI with 8-9 year olds after watching a magic show. The CI involved context reinstatement through the child recalling how they were feeling and picturing themselves at the event. When questioned two days later, there was significantly more correct recall with the CI than the Standard Interview (SI) (15.8% vs 12.7%), but also

significantly more errors with the CI (10.0 vs 7.1 mean errors). At questioning 12 days after the event, there were no significant differences between the two types of interview. There were differences overall in the type of information recalled (table 11).

INFORMATION ABOUT:	MEAN % CORRECT		MEAN NUMBER OF ERRORS	
	CI	SI	CI	SI
PERSONS	7.5	5.7	3.4	1.9*
ACTIONS	6.2	3.1	1.7	1.1**
OBJECTS	8.6	5.3	1.8	1.0**
SURROUNDINGS	1.6	2.8	0.0	0.0

(\* = p0.05; \*\* = p0.01)

(After Memon et al 1997)

Table 11 - Breakdown of results from Memon et al (1997).

Interestingly, Fivush and Shukat (1995) noted, in a general memory experiment, that 3-5 year olds were better at recalling activities or objects than of people or locations.

### Use of visualising imaginary events

Children encouraged to repeatedly imagine personal experiences will find it hard to distinguish between reality and fictitious events (Ceci et al 1994). Recall of negative events, fictitious or real, was more accurate, however, than of positive or neutral events.

### WHERE TO INTERVIEW THE CHILD

Recall is best if the interviewing situation is not stressful for the child, and is a comfortable environment. Children questioned in courtrooms perform worse on recall and misleading questions (Warren and McGough 1996).

### CONCLUSIONS

Children of all ages can produce accurate recall of the essential facts of events, and the keys are a lack of suggestion in the interview, and no motivation to false report. Where the studies found a difference in response

to misleading questions, in 83% of the cases, preschoolers were more vulnerable (Ceci and Bruck 1993).

There are still occasions when a small number of children make bizarre and unfounded claims. In the Rudy and Goodman (1991) study, one child claimed to have seen bones and blood during the game with the adult.

In terms of truthfulness, King and Yuille (1987) found that less than 10% of six hundred sexual abuse cases were fictions, and, in this case, it was often an adult who had created the story for the child initially.

Why are younger children more susceptible to suggestive interviewing? There are a number of factors involved (Ceci et al 2002) (table 12). Many of these factors are relevant to older child and adult witnesses

FACTORS INVOLVED	NOT INVOLVED/EFFECT NOT KNOWN
- source monitoring (ie: where memory originated) eg: story or real-life	- intelligence differences (other than low intelligence of learning disability level)
- memory strength ie: memory trace	- personality eg: need for compliance
- knowledge about topic increases resistance to suggestion	- temperament: unknown if involved
- Theory of Mind	

Table 12 - Some factors in younger children giving false reports.

Overall, Warren and McGough (1996) concluded that interviewers should encourage free recall through rapport with the child, not to pressurise for answers or interrupt, use props (like anatomical dolls) only as a last resort, and keep to age-appropriate language.

Ceci et al (2002) argued that young children can be suggestible under the following conditions:

i) With repeated erroneous suggestions where children hold pre-existing stereotypes;

ii) With repeated pressure to visualise fictitious events;

iii) With substantial time delay between the event and questioning;



- iv) With suggestive use of anatomical dolls;
- v) With a biased interviewer questioning them.

There are still enough controversies and methodological debates that the research findings on children as witnesses are not unanimous (Clifford 2002).

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# Children Testifying in Court

## INTRODUCTION

Testifying in court is a stressful experience for anyone, but especially for children. Goodman et al (1992) followed a number of US children through the whole trial process: half (20 of 40) showed signs of distress during the preliminary hearing, and eleven of seventeen during the trial.

Oates and Tong (1987) studied 46 Australian children testifying in sexual abuse cases. Some of the cases (21) went to court, and, of these, 57% of the children were reported as having behavioural problems two and a half years after the trial compared to 12% of the children who did not go to court.

Table 13 lists the factors in the trial process that cause stress and anxiety for children. In fact, many of the same factors are stressful for adult witnesses.

Wade (2002) reported a recent qualitative study of children who gave evidence in Britain. The responses were mixed (ie: both positive and negative effects of the court experience), and the children's needs were diverse. The experience of court, it should not be forgotten, comes on top of the experience of the offence/being a victim.

PRE-TRIAL	TRIAL	POST-TRIAL
Repeated interviews	Waiting in court	No debriefing or follow-up
Lack of understanding of legal terms	Lack of knowledge of legal procedure	Unsuccessful prosecution
Waiting for trial (without counselling)/anticipation of testifying	Layout and size of courtroom	
Rescheduling of trial	Giving evidence and cross-examination	
Removal of child from home	Confronting accused	
Retaliation		
Fear of unknown		
Media reporting		

(After Brewer 2000)

Table 13 - Factors in the trial process causing children stress.

There are a number of reforms of court procedure and issues related to children giving testimony in court (Myers 1996) (table 14).

Court preparation

Use of children's hearsay statements; eg: sexual abuse disclosure to professionals, and need for corroborated evidence

Competence to testify, and understanding oath

Altering the courtroom to accommodate child witnesses, including language used

Greater control by judge of proceedings and questioning of child, including jury instructions on child witnesses

Protecting children from cross-examination by allowing professionals to testify in their place; eg: Law of Evidence Revision - Protection of Children (LER-PC) in Israel

Use of support persons for child during testimony

Child not in court when not testifying

Closing the courtroom to the public and the media

Pre-recorded video testimony

Helping child to testify; eg: testify from behind screen or glass, or via closed-circuit television link

Use of expert witnesses to confirm or challenge reliability of child witnesses generally

Table 14 - Issues related to children testifying in court.

Three of the issues are discussed in detail - alternative modes of giving evidence : videotaped evidence, and closed-circuit television (CCTV) links; court preparation; and the language used in the courtroom.

#### ALTERNATIVE MODES OF GIVING EVIDENCE

Children's ability to give evidence and deal with questions is influenced by the courtroom setting. So attempts have been made to help children in such situations by allowing them to give evidence in different ways: from behind a screen or glass in the courtroom; via CCTV or "live link" in another room; and earlier

videotaped testimony or interview <sup>4</sup>.

Pipe and Henaghan (1996) questioned over 300 courtroom/legal staff, police officers, and social work professionals in New Zealand about the different modes of giving evidence available for children. Generally the responses were positive for the alternative modes (table 15), but certain groups did disagree: for example, social workers were significantly more positive than defence lawyers in many cases (table 16).

TESTIMONY IN COURT	VIDEO EVIDENCE	CCTV LINK	BEHIND SCREEN
Reduce (1) or increase (5) trauma of testifying for child witnesses 4.10	1.59	1.72	1.75
Positive (1) or negative (5) effect on quality of children's testimony 3.24	2.63	2.50	2.35
More (1) or less (5) likely to tell truth 3.00	2.94	2.85	2.79
Positive (1) or negative (5) effect on how jury perceived child's evidence 2.44	2.74	2.85	2.73
Fair (1) or unfair (5) on defendant 2.15	3.19	3.13	3.02

(Data from Pipe and Henaghan 1996)

Table 15 - Mean scores of responses of New Zealand legal, police, and social work professionals to different modes of evidence giving for children.

	TESTIMONY IN COURT	VIDEO EVIDENCE	CCTV LINK	BEHIND SCREEN
Fair (1) or unfair (5) on defendant				
SOCIAL WORKERS	2.30	2.44	2.52	2.42
DEFENCE LAWYERS	1.58	4.25*	4.25*	4.00*
Positive (1) or negative (5) effect on quality of child's testimony				
SOCIAL WORKERS	4.34	1.85	1.89	2.28
DEFENCE LAWYERS	2.75*	2.96*	2.93*	2.50

(\* Significant difference) (After Pipe and Henaghan 1996)

Table 16 - Comparison of responses by social workers and defence lawyers.

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<sup>4</sup> The guidelines for the use of these techniques in Britain was first laid out in the Home Office (1992)'s "Memorandum of Good Practice on Video Recorded Interviews with Child Witnesses for Criminal Proceedings". These guidelines have been developed in the Home Report (2002) report "Action for Justice" ("Achieving Best Evidence").



## Videotaped Evidence

Interviews with children videotaped earlier and watched in court as evidence can be viewed in two ways by the jury: as an attempt to avoid the defendant from scaring the child in court, and thus the defendant must be guilty; or an attempt by the prosecution to avoid the scrutiny of the courtroom, and therefore the child's testimony must be suspect (Kovera and Borgida 1996).

Research (both simulated and real-life) comparing videotaped evidence and live testimony by children are divided as to which of the effects above apply (Davies et al 1995). Allowing the jury to replay the video during deliberations can lead to dwelling upon that evidence (Swim et al 1993).

Table 17 summarises the advantages and disadvantages of videotaped evidence.

ADVANTAGES	DISADVANTAGES
- Preserve evidence as memory of young children deteriorates	- No control over interviewing practices; eg: use of misleading questions
- Stops need of child to retell story many times	- Anxiety for child of being videotaped
- Can be used pre-trial to help defendant prepare case or encourage guilty plea	- May be easier for child to lie, and/or harder to detect their lies by jury
- Young and/or traumatized children may not be able to give evidence in court	- How jury perceives child not appearing in court
- Overcomes negative effects that courtroom has on children's testimony	- Defendants cannot cross-examine child
- Used as refresher of children's memory if long time between event and trial	- Financial costs of interviewing
- Better than audio-taping as court can see child	- Focus upon individuals who interview and their techniques rather than child's testimony
- Can be edited to remove any inadmissible material to avoid a mistrial	- Limited use in trials; eg: 20% shown in court (Cashmore 2002)
	- Concerns over when is the best time to interview child
	- Less impact on jury compared to live testimony

Table 17 - Advantages and disadvantages of videotaped evidence by children.

## Live CCTV Link

The use of live CCTV links can have a number of effects:

- i) Reduces fear and anxiety of children.

Countries that use CCTV links in court have initially reported similar positive results for the children (eg: Australia: Western Australia Department of Community Services 1990; New Zealand: Whitney and Cook 1990; England: Davies and Noon 1991). In the first detailed analysis of its use in Scotland, Flin et al (1996) found that it resolved the children's greatest fear - confronting the accused in court.

- ii) Increased confidence of children.

Trained observers found that 40% of 154 children in 100 trials were classed as "confident" or "very confident" when giving evidence through the CCTV link (Bull and Davies 1996).

It is also important that the child feels that it is a choice to use CCTV or give testimony in court (Cashmore 2002).

- iii) Influence on the process of the trial.

A number of lawyers interviewed in Scotland felt that CCTV might reduce the ability to cross-examine, and in particular to test the witness's reliability and credibility (Flin et al 1996).

Cashmore (1992) noted that courtroom staff were more supportive, and there was greater clarification of questions in cross-examination with CCTV compared to open court in Australia. But other research has suggested that CCTV links lead to more vigorous cross-examination of the child witness (Spencer and Flin 1990).

- iv) Influence on the outcome of the trial.

Research into 468 cases in England and Wales in the early 1990s using CCTV link facilities for child witnesses produced broadly similar results to open-court testimony: 28% led to conviction, 26% acquittal, 7% retrial, and the remainder had late "guilty" pleas (Bull and Davies 1996).

While analysis of 48 trials involving 73 children in Australia found no difference in conviction rates for videotaped evidence (70% of trials), CCTV live links (69%), and open court (62-67%).

v) View of courtroom and legal staff on use of CCTV links.

Bull and Davies (1996) reported interviews with 50 judges, 78 barristers and 13 court administrators in England and Wales who had used CCTV links. The key findings were a perceived reduction in stress of the child witness, and, in many cases, an improvement in the quality of the evidence given.

However, 44% of judges did feel that the CCTV link evidence had less effect upon the jury compared to live testimony.

Overall, legal staff do appreciate that it also allows younger children to give evidence who would not otherwise, irrelevant of the quality of that evidence (Flin et al 1996).

vi) Perception of the witness by the jury.

Goodman et al (2001), in a full-scale community mock trial in the US, found that juror's perceived the credibility of child witnesses lower using CCTV links than in open court. But when the children provided more accurate testimony by CCTV link, it was believed more by the jurors than open court testimony.

#### COURT PREPARATION

One attempt to reduce the stress of testifying in court for children is through court preparation schemes. These may be individual or group-based. One of the first such schemes is the Child Witness Project (CWP) set up in 1988 by the London Family Court Clinic, Ontario, Canada. The aims were threefold (Sas et al 1996):

i) To educate potential child witnesses about the court and procedure through techniques like court tours, and role-playing of court. The task is to demystify the procedures and make the child comfortable with the physical environment of the court.

ii) To use stress reduction techniques to reduce the fear and anxiety of testifying for the child. The most reported fears for child witnesses were facing the accused, being hurt by the accused in court or afterwards, being on the stand, being sent to jail, and not understanding the questions (Sas et al 1993). Stress reduction techniques used include breathing and muscle relaxation exercises, development of a fear hierarchy, and cognitive restructuring.

iii) To give the child emotional support throughout

the experience.

Kohnken (2002) reported details of the court preparation programme used in Schleswig-Holstein, Germany since 1996. Education about the courtroom includes puppets enacting a trial, and an illustrated brochure. Children are empowered by advice on showing emotions, and seeking clarification when aspects of the trial are not understood. A support worker remains with the child before, during (if acceptable to the judge), and after testifying. The programme has received positive feedback, in two studies, both from the children, and the lawyers, who found it easier to question prepared children in court (Kohnken 2002).

Court preparation schemes do increase education of the court and reduce the intimidation of the situation for the child, as well as reducing the fears and anxieties to some extent (Edelstein et al 2002). The schemes also increase memory and reduce suggestibility (Myers 1996). However, a negative court experience for the child is also related to the verdict, the nature of the relationship to the accused, and the availability of a supportive mother (Sas et al 1996).

Kovera and Borgida (1996) summed up the benefits:

A child who has been prepared for the courtroom experience and has become confident in that environment might appear more confident, composed and credible. Not only might he or she demonstrate behaviours indicative of greater poise, but he or she might also provide coherent testimony relatively free from hesitations and nonfluencies (p213).

But child confident in court may be perceived differently by the jury, as the stereotype of the abused child, for example, is nervous and uncertain. In a simulated child sexual abuse trial, a child actress played the witness as nervous or confident. More prosecution decisions came when the child actress was nervous (Kovera and Borgida 1996).

More recently, Golding et al (2003) have found, with US undergraduates as mock jurors, that there is a clear expectation of how the child witness should behave in court. A child actress gave evidence in a simulated "First Degree Rape" trial in three styles: calm, teary, or hysterical crying. The teary performance produced more guilty verdicts, and was perceived as more believable by the jury (table 18).

(Score:1-10)	PERFORMANCES BY CHILD WITNESS:	CALM	TEARY	HYSTERICAL CRYING
LIKELIHOOD OF GUILTY VERDICT		4.91	5.40	4.91
BELIEVABILITY OF VICTIM		5.41	6.05	5.09

(After Golding et al 2003)

Table 18 - Perception of child witness by jury based on emotions shown by that witness.

## LANGUAGE USED IN THE COURTROOM

The courtroom situation involves specific complex language, which can be difficult for adults, let alone children, to understand.

Brennan and Brennan (1988) analysed the transcripts of 26 Australian cases involving thirty child witnesses (6-15 years-old), and noted thirteen features of the language used that adults found difficult - eg: double negatives. The authors particularly noted the use of multifaceted questions with child. These are described as "convoluted preambles, confused centres and rhetorical endings which invite no response" - for example:

Well I know, I understand what you say. You have been talking to her today but you see, what I am asking you is this. That statement suggests that you said those things that you now say are wrong to the police. Now did you say it to the police or did you not?

(quoted in Shrimpton et al 1996 p136).

The implications of not understanding the language used are important. Saywitz et al (1990) noted the case of a child who when asked to identify the assailant could not, and this damaged her credibility. But later asked to point at the person who hurt her, she was able to. Thus the lack of understanding of the legal term "assailant" was key here.

Perry et al (2001) used the term "lawyerese" to cover the language of the courtroom. In their study, they compared the accuracy of recall of a videotaped incident, of two children arguing over toys, by children of different ages and college students based on being asked "lawyerese" (complex) questions or age-appropriate ones. Table 19 gives some examples of the questions used.

"LAWYERESE" VERSION	SIMPLIFIED VERSION
DIFFICULT VOCABULARY	
In the incident depicted, was the perpetrator in chartreuse apparel?	In the video, was the bad guy wearing green clothes?
COMPLEX SYNTAX	
Would it be correct to suggest that the man in the video wearing red was named John?	Was the main named John?
DOUBLE NEGATIVES	
Would you not say Katie did not have a red sweatshirt?	Would you say that Katie had on a red sweatshirt?

(After Perry et al 2001)

Table 19 - Comparison of "lawyerese" and simplified versions of questions.

The simplified versions of the questions produced more correct answers and less "don't know" responses for all age groups (table 20).

	CHILDREN	STUDENTS
"DON'T KNOW" RESPONSES (%)		
Lawyerese	20	19
Simplified	7	9
MEAN NUMBER OF CORRECT RESPONSES TO QUESTIONS (out of 4)		
Lawyerese	1.7	1.8
Simplified	3.3	3.5

Table 20 - Responses to "lawyerese" and simplified versions of questions.

## CONCLUSIONS

Attempts at protection of child witnesses (for example through CCTV links) and preparation for court do reduce the negative impact of "court-induced trauma" (Satter 1998).

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# **Is It Possible To Tell Whether Child Witnesses Are Lying?**

## INTRODUCTION

This is an age-old question about witnesses generally, and many suggestions have been made in relation to looking for non-verbal cues. These include characteristics of liars like blinking more, and higher speech pitch, as well as "micro-expressions" (eg: minute smiles) only visible on frame-by-frame video analysis.

Many of the non-verbal cues are also signs of stress, as are the measurements made by polygraphs (Brewer 2000). Often there are stereotypical characteristics of how liars behave which police officers use, but the police are no better than chance at detecting deception (Aldert Vrij 2001).

It is felt that it may be better to study what the witness actually says. One systematic way to do this is known as Statement Validity Analysis (SVA) or statement reality analysis (Undeutsch 1982;1992). This technique was primarily developed for assessing the truthfulness of child witnesses in child sexual abuse cases (Steller and Boychuk 1992).

The aim is to find content characteristics that show the witness did experience or see what they are reporting. Undeutsch argued that true events are reported differently to false ones with richer levels of detail, and clearer linkage to other events of the person's life, for example.

Thus the "Undeutsch hypothesis" assumes that truthful narratives can be distinguished from untruthful ones through their form and structure.

SVA includes two main areas - the psychology of the witness (as assessed by the Validity Checklist), and Criteria-Based Content Analysis (CBCA).

i) Psychology of the witness - This includes psychological characteristics of the witness (eg: tendency to exaggerate), interview characteristics (eg: who and where the interview takes place), motives and pressure to report, and biographical information (Lamers-Winkelmann and Buffing 1996).

ii) Criteria-Based Content Analysis - Stellar and Kohnken (1989) were responsible for developing the five categories of content criteria used to analyse the statement given by the witness (table 21).

CRITERIA CATEGORIES	SUB-CATEGORIES
1. General characteristics of entire statement	<ul style="list-style-type: none"> <li>- logical structure</li> <li>- unstructured production eg: chaotic, and digresses with shifts of focus</li> <li>- appropriate quantity of details about time, place, persons etc</li> </ul>
2. Specific contents	<ul style="list-style-type: none"> <li>- contextual embedding: the event witnessed fits into the routine life experiences</li> <li>- descriptions of interactions</li> <li>- reproduction of conversations</li> <li>- unexpected complications in story</li> </ul>
3. Peculiarities of content	<ul style="list-style-type: none"> <li>- unusual details</li> <li>- superfluous details</li> <li>- misunderstood details</li> <li>- related external associations</li> <li>- accounts of subjective mental state</li> <li>- attribution of perpetrator's mental state</li> </ul>
4. Motivation-related contents - possible reasons for false witness information	<ul style="list-style-type: none"> <li>- spontaneous corrections</li> <li>- admitting lack of memory (liars often try to avoid admitting memory lapses)</li> <li>- raising doubts about one's own testimony</li> <li>- self-depreciation</li> <li>- pardoning the perpetrator</li> </ul>
5. Offence-specific elements	<ul style="list-style-type: none"> <li>- details relating to the offence that are known to be typical of that type of offence</li> </ul>

(After Lamers-Winkelmann and Buffing 1996)

Table 21 - Categories used in CBCA.

Truthful narratives tend to show certain

characteristics (Howitt 2002):

- Detail of context, conversations, and interactions;
- Irrelevant detail around the event;
- Unstructured or disorganised reporting of logical events;
- The witness accepts that their account may be flawed because of poor or incomplete memory.

## RESEARCH ON STATEMENT VALIDITY ANALYSIS

### 1. Simulation studies

A number of studies have looked at the accuracy of SVA, or particularly CBCA in experimental simulations (table 22). Some of the studies used scenarios that are not similar to real-life events, and certainly not related to child sexual abuse cases (ie: lack of external validity) (Lamers-Winkelmann and Buffing 1996).

Lamb et al (1997) felt that not all of the dimensions of CBCA are effective in distinguishing true from false statements. The best dimensions were unstructured production, appropriate quantity of details, contextual embedding, descriptions of interactions, reproduction of conversations, and unusual details.

While the poorer dimensions were logical structure, unexpected complications in story, superfluous details, misunderstood details, related external associations, accounts of subjective mental state, attribution of perpetrator's mental state, and spontaneous corrections.

### 2. Field studies

This research makes use of real-life allegations to test the accuracy of CBCA (and SVA) (table 23). There are concerns that CBCA dimensions may not be present in the statements of young children due to their age rather than false statements; ie: certain dimensions are not appropriate (Lamers-Winkelmann and Buffing 1996).

Undeutsch is confident about the validity of SVA from the use in Germany. But Howitt (2002) noted that it is not known how many false negatives (ie: incorrect decision that witness is false) are produced from using this technique.

STUDY	DETAILS	FINDINGS
Kohnken & Wegener (1982)*	16-17 year-old females either saw film or told about it	Quantity of detail - more from those seeing film; unstructured production - more in group told about film
Stellar et al (1988)**	6 and 9 year-olds and experts produced story about real or fictitious events	Hit rates: 78% of true cases; 62% of false cases
Yuille (1988)	49 x 6-9 year-olds told either true or false story	Evaluation of stories produced correct classification of 91% of true stories and 74% of false ones
Jaffe & Yuille (1992)*	142 x 6-8 year-olds witness event or told about event and coached (heavily/lightly) on how to give statement	CBCA could detect those who saw event and lightly coached children who did not see it, but not those heavily coached
Honts et al (1992)*	17 x 4-10 year-olds saw theft of book or not vs told to lie about who took book	CBCA was able to distinguish between true and false witnesses
Akehurst et al (1995)**	7-8, 10-11 year-olds and adults reported having photographs taken	Hit rates: 73% of true cases; 67% of false case; no age differences found
Winkel & Vrij (1995)**	8-9 year-olds and experts produced story about having a cat	Truth-tellers received higher scores on CBCA than liars

(\* Quoted in Lamers-Winkelmann and Buffing 1996; \*\* quoted in Vrij 2002)

Table 22 - Examples of simulation studies of CBCA.

STUDY	DETAILS	FINDINGS
Esplin et al (1988)*	Confirmed or unconfirmed/doubtful statements by alleged child sexual abuse victims (3-15 years-old)	CBCA scores were significantly different for the confirmed and unconfirmed statements (as expected)
Lamers-Winkelman & Buffing	103 interviews of alleged sexual abuse victims in Holland, divided into four age groups between 2-12 years old	Certain criteria of CBCA were not evident in younger children (2-3 years old) because of age rather than falsity of statement eg self-depreciation, attribution of perpetrator's mental state, superfluous details

(\* Quoted in Lamers-Winkelman and Buffing 1996)

Table 23 - Examples of field studies of CBCA.

#### CHILDREN'S UNDERSTANDING OF LYING

Vrij (2000) defined a lie as a "successful or unsuccessful deliberate attempt, without forewarning, to create in another a belief which the communicator considers to be untrue".

DePaulo et al (1996) distinguished three types of lies: outright lie (or falsifications), subtle lies (eg: concealing information), and exaggerations.

Whether young children are lying as witnesses is one issue, but it may be that they cannot distinguish between lies and mistakes. Siegal and Peterson (2001) used a scenario of mouldy bread and two toy bears with 3-6 year-olds.

One bear could see the bread was mouldy and then told a friend in another room that the bread was alright to eat ("liar bear"), and the other bear could not see the bread but told the friend it was alright ("mistaken bear").

Three-quarters of the children correctly identified the lie, and two-thirds the mistake. The majority of children also perceived the "liar bear" as naughtier than the "mistaken bear". The variable of repeated questioning did not change the children's answers.

The ability of young children to distinguish between lies and mistakes challenges the traditional views of Paiget (1932/1977) on children's understanding of lies.

The legal profession has attempted to assess children's understanding of truth and lies in three ways (McCarron et al 2004):

a) Asking the child to define the two concepts. Lyon (2002) felt that many children "who have a good understanding of the distinction between truthful and untruthful statements will fail such tasks" (p248);

b) Asking the child to explain the difference between truth and lies;

c) Getting the child to identify examples of true and false statements.

The last two issues relate to giving evidence and children's understanding of the implications of lying, particularly with the obligation to tell the truth in court. A number of legal interviews of children begin with a truth-lie discussion (TLD); eg: "Do you know the difference between a truth or a lie?"

Huffman et al (2001) found that children will full TLD (including scenarios) at the beginning of interviews produced more accuracy in their recall of events than children with standard TLD (eg: questions) or no TLD. Lyon (2002) explored this issue in relation to children understanding when they take an oath in court.

Working with the Northumbria Police, McCarron et al (2004) have developed the "Truth and Lie Story" for assessing the child's understanding of truth and lies (table 24) (with different versions for adolescents). It is similar to scenarios developed by Piaget.

#### SCENARIO

John (Mary) was playing with his/her ball in the kitchen and he/she hit the ball against the window. The window broke and John (Mary) ran upstairs into his/her bedroom. John's (Mary's) mummy saw the broken window, and asked John (Mary) if he/she had broken the window. John (Mary) said, "No, Mummy".

#### QUESTIONS

Did John (Mary) tell a lie?  
What should he/she have said?  
Why do you think he/she said, "No, Mummy"?

(After McCarron et al 2004)

Table 24 - The "Truth and Lie Story".

Table 25 summarises the main questions and answers about children lying generally (Vrij 2002).

QUESTION	ANSWER
At what age do children start telling lies?	Four years old, but can misinform before that age
Why do children lie?	To avoid punishment; to obtain rewards; to protect their self-esteem; to regulate "relationship dynamics" (eg: pretending to be happy to see person); conformity; to protect loved ones
Can adults detect children's lies?	CBCA: approx 75% correct  From face: some success, but with younger children mostly  From total image: approx 50-60% success (not really greater than chance)

Table 25 - Main questions and answers relating to children lying.

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